

House Bill 1081 (AS PASSED HOUSE AND SENATE)

By: Representative O'Neal of the 146<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to revise and change certain provisions relating to ad valorem taxation of property; to change certain provisions regarding qualifications for bona fide conservation use property; to change certain provisions regarding bona fide conservation use property which is subject to restrictive covenants; to provide for notice, procedures, and appeal rights regarding covenant breaches; to change certain provisions regarding the payment of interest in taxpayer appeals; to provide for interest; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, is amended in Code Section 48-5-7.4, relating to bona fide conservation use property, by revising the introductory language of subsection (a) preceding paragraph (1); by deleting the period at the end of paragraph (2) and inserting in its place "; and"; and by adding a new paragraph (3) to read as follows:

"(a) For purposes of this article, the term 'bona fide conservation use property' means property described in and meeting the requirements of paragraph (1) or (2) and paragraph (3) of this subsection, as follows:"

"(3) The governing authority of a county in which the property that otherwise meets the requirements for current use assessment is located may establish a minimum number of acres as a condition for qualifying for the current use assessment. Such minimum shall be up to 25 acres and shall apply exclusively to qualified property that is first made subject to a covenant required by subsection (d) of this Code section or is subject to the renewal of a previous covenant required by subsection (d) of this Code section on or after January 1, 2012."

**SECTION 2.**

Said chapter is further amended in Code Section 48-5-7.4, relating to bona fide conservation use property, by revising paragraph (5) of subsection (b) as follows:

"(5) No property shall qualify as bona fide conservation use property if such property is at the time of application for current use assessment subject to a restrictive covenant which prohibits the use of the property for ~~any~~ the specific purpose described in subparagraph (a)(1)(E) of this Code section for which bona fide conservation use qualification is sought; and"

**SECTION 3.**

Said chapter is further amended in Code Section 48-5-7.4, relating to bona fide conservation use property, by adding a new subsection to read as follows:

"(k.1) In the case of an alleged breach of the covenant, the owner shall be notified in writing by the board of tax assessors. The owner shall have a period of 30 days from the date of such notice to cease and desist the activity alleged in the notice to be in breach of the covenant or to remediate or correct the condition or conditions alleged in the notice to be in breach of the covenant. Following a physical inspection of property, the board of tax assessors shall notify the owner that such activity or activities have or have not properly ceased or that the condition or conditions have or have not been remediated or corrected. The owner shall be entitled to appeal the decision of the board of tax assessors and file an appeal disputing the findings of the board of tax assessors. Such appeal shall be conducted in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311."

**SECTION 4.**

Said chapter is further amended in Code Section 48-5-311, relating to county boards of equalization and review and appeal of property tax assessments, by revising subdivision (e)(6)(D)(iii)(III) as follows:

"(III) If the final determination of value on appeal is greater than the valuation thus used, the taxpayer shall be liable for the increase in taxes for the year in question due to the increased valuation fixed on appeal with interest at the rate as specified in Code Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due to the date the additional taxes are remitted, but in no event shall ~~such interest accrue for a period of more than 180 days~~ the amount of such interest exceed \$150.00. Any

taxpayer shall be exempt each taxable year from any such interest owed under this subdivision with respect to such taxpayer's homestead property."

### SECTION 5.

Said chapter is further amended in Code Section 48-5-311, relating to county boards of equalization and review and appeal of property tax assessments, by revising division (g)(4)(B)(iii) as follows:

"(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, the arbitrator, or the arbitrators, as applicable, the taxpayer shall be liable for the increase in taxes for the year in question due to the increased valuation fixed on appeal with interest at the same rate as specified in Code Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in question or the date the final installment of tax was due to the date the additional taxes are remitted, but in no event shall ~~such interest accrue for a period of more than 180 days~~ the amount of such interest exceed \$150.00. Any taxpayer shall be exempt each taxable year from any such interest owed under this subparagraph with respect to such taxpayer's homestead property."

### SECTION 6.

Said chapter is further amended in Code Section 48-5-311, relating to county boards of equalization and review and appeal of property tax assessment, by adding a new subsection to read as follows:

"(m) In the event a refund is owed to the taxpayer, such refund shall be paid to the taxpayer within 60 days of the last date upon which an appeal may be filed, or the date the final determination of value is established on appeal, whichever is later. Any refund paid after the sixtieth day shall accrue interest from the sixtieth day until paid with interest at the same rate as specified in Code Section 48-2-35."

### SECTION 7.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

### SECTION 8.

All laws and parts of laws in conflict with this Act are repealed.